

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

JUSTIN BRYAN FENTON
8486 Mt. Whitney Ave
Desert Hot Springs, CA 92240

Applicant for Registered Nurse License

Respondent

Case No. 2011-595

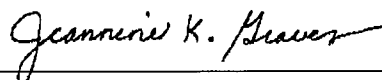
OAH No. 2011020657

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **June 16, 2011**.

IT IS SO ORDERED **May 17, 2011**.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 WILLIAM A. BUESS
Deputy Attorney General
4 State Bar No. 134958
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2039
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **JUSTIN BRYAN FENTON**

14 Respondent.

Case No. 2011 595

OAH No. 2011020657

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board
21 of Registered Nursing. She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by William A.
23 Buess, Deputy Attorney General.

24 2. Respondent Justin Bryan Fenton ("Respondent") is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about August 16, 2010, Respondent filed an application for licensure by
27 examination as a Registered Nurse dated August 11, 2010, with the Board of Registered Nursing.

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1 15. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5
6 IT IS HEREBY ORDERED:

7 1. The application of Respondent Justin Bryan Fenton for licensure is hereby granted.
8 Upon successful completion of the licensure examination and all other licensing requirements, a
9 license shall be issued to Respondent. Said license shall immediately be revoked, the order of
10 revocation stayed and Respondent placed on probation for a period of three (3) years on the
11 following conditions:

12 **Severability Clause.** Each condition of probation contained herein is a separate and
13 distinct condition. If any condition of this Order, or any application thereof, is declared
14 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
15 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
16 and enforceable to the fullest extent permitted by law.

17 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A
18 full and detailed account of any and all violations of law shall be reported by Respondent to the
19 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
20 compliance with this condition, Respondent shall submit completed fingerprint forms and
21 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
22 as part of the licensure application process.

23 **Criminal Court Orders:** If Respondent is under criminal court orders, including
24 probation or parole, and the order is violated, this shall be deemed a violation of these probation
25 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

26 2. **Comply with the Board's Probation Program.** Respondent shall fully
27 comply with the conditions of the Probation Program established by the Board and cooperate with
28 representatives of the Board in its monitoring and investigation of the Respondent's compliance

1 with the Board's Probation Program. Respondent shall inform the Board in writing within no
2 more than 15 days of any address change and shall at all times maintain an active, current license
3 status with the Board, including during any period of suspension.

4 Upon successful completion of probation, Respondent's license shall be fully restored.

5 3. **Report in Person.** Respondent, during the period of probation, shall
6 appear in person at interviews/meetings as directed by the Board or its designated representatives.

7 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
8 or practice as a registered nurse outside of California shall not apply toward a reduction of this
9 probation time period. Respondent's probation is tolled, if and when he resides outside of
10 California. Respondent must provide written notice to the Board within 15 days of any change of
11 residency or practice outside the state, and within 30 days prior to re-establishing residency or
12 returning to practice in this state.

13 Respondent shall provide a list of all states and territories where he has ever been licensed
14 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
15 information regarding the status of each license and any changes in such license status during the
16 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
17 license during the term of probation.

18 5. **Submit Written Reports.** Respondent, during the period of probation,
19 shall submit or cause to be submitted such written reports/declarations and verification of actions
20 under penalty of perjury, as required by the Board. These reports/declarations shall contain
21 statements relative to Respondent's compliance with all the conditions of the Board's Probation
22 Program. Respondent shall immediately execute all release of information forms as may be
23 required by the Board or its representatives.

24 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
25 state and territory in which he has a registered nurse license.

26 6. **Function as a Registered Nurse.** Respondent, during the period of
27 probation, shall engage in the practice of registered nursing in California for a minimum of 24
28 hours per week for 6 consecutive months or as determined by the Board.

1 For purposes of compliance with the section, "engage in the practice of registered nursing"
2 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
3 non-direct patient care position that requires licensure as a registered nurse.

4 The Board may require that advanced practice nurses engage in advanced practice nursing
5 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

6 If Respondent has not complied with this condition during the probationary term, and
7 Respondent has presented sufficient documentation of his good faith efforts to comply with this
8 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
9 extension of Respondent's probation period up to one year without further hearing in order to
10 comply with this condition. During the one year extension, all original conditions of probation
11 shall apply.

12 **7. Employment Approval and Reporting Requirements.** Respondent shall
13 obtain prior approval from the Board before commencing or continuing any employment, paid or
14 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
15 performance evaluations and other employment related reports as a registered nurse upon request
16 of the Board.

17 Respondent shall provide a copy of this Decision to his employer and immediate
18 supervisors prior to commencement of any nursing or other health care related employment.

19 In addition to the above, Respondent shall notify the Board in writing within seventy-two
20 (72) hours after he obtains any nursing or other health care related employment. Respondent
21 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
22 regardless of cause, from any nursing, or other health care related employment with a full
23 explanation of the circumstances surrounding the termination or separation.

24 **8. Supervision.** Respondent shall obtain prior approval from the Board
25 regarding Respondent's level of supervision and/or collaboration before commencing or
26 continuing any employment as a registered nurse, or education and training that includes patient
27 care.

28 Respondent shall practice only under the direct supervision of a registered nurse in good

1 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
2 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
3 approved.

4 Respondent's level of supervision and/or collaboration may include, but is not limited to the
5 following:

6 (a) Maximum - The individual providing supervision and/or collaboration is present in
7 the patient care area or in any other work setting at all times.

8 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
9 care unit or in any other work setting at least half of the hours Respondent works.

10 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
11 person communication with Respondent at least twice during each shift worked.

12 (d) Home Health Care - If Respondent is approved to work in the home health care
13 setting, the individual providing supervision and/or collaboration shall have person-to-person
14 communication with Respondent as required by the Board each work day. Respondent shall
15 maintain telephone or other telecommunication contact with the individual providing supervision
16 and/or collaboration as required by the Board during each work day. The individual providing
17 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
18 patients' homes visited by Respondent with or without Respondent present.

19 9. **Employment Limitations.** Respondent shall not work for a nurse's
20 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
21 traveling nurse, or for an in-house nursing pool.

22 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
23 registered nursing supervision and other protections for home visits have been approved by the
24 Board. Respondent shall not work in any other registered nursing occupation where home visits
25 are required.

26 Respondent shall not work in any health care setting as a supervisor of registered nurses.
27 The Board may additionally restrict Respondent from supervising licensed vocational nurses
28 and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

1 Surrender of Respondent's license shall be considered a disciplinary action and shall
2 become a part of Respondent's license history with the Board. A registered nurse whose license
3 has been surrendered may petition the Board for reinstatement no sooner than the following
4 minimum periods from the effective date of the disciplinary decision:

5 (1) Two years for reinstatement of a license that was surrendered for any reason other
6 than a mental or physical illness; or

7 (2) One year for a license surrendered for a mental or physical illness.

8 13. **Physical Examination.** Within 45 days of the effective date of this
9 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
10 physician assistant, who is approved by the Board before the assessment is performed, submit an
11 assessment of the Respondent's physical condition and capability to perform the duties of a
12 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
13 medically determined, a recommended treatment program will be instituted and followed by the
14 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
15 to the Board on forms provided by the Board.

16 If Respondent is determined to be unable to practice safely as a registered nurse, the
17 licensed physician, nurse practitioner, or physician assistant making this determination shall
18 immediately notify the Board and Respondent by telephone, and the Board shall request that the
19 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
20 immediately cease practice and shall not resume practice until notified by the Board. During this
21 period of suspension, Respondent shall not engage in any practice for which a license issued by
22 the Board is required until the Board has notified Respondent that a medical determination
23 permits Respondent to resume practice. This period of suspension will not apply to the reduction
24 of this probationary time period.

25 If Respondent fails to have the above assessment submitted to the Board within the 45-day
26 requirement, Respondent shall immediately cease practice and shall not resume practice until
27 notified by the Board. This period of suspension will not apply to the reduction of this
28 probationary time period. The Board may waive or postpone this suspension only if significant,

1 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
2 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
3 Only one such waiver or extension may be permitted.

4 14. **Participate in Treatment/Rehabilitation Program for Chemical**
5 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
6 period or shall have successfully completed prior to commencement of probation a Board-
7 approved treatment/rehabilitation program of at least six months duration. As required, reports
8 shall be submitted by the program on forms provided by the Board. If Respondent has not
9 completed a Board-approved treatment/rehabilitation program prior to commencement of
10 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
11 a program. If a program is not successfully completed within the first nine months of probation,
12 the Board shall consider Respondent in violation of probation.

13 Based on Board recommendation, each week Respondent shall be required to attend at least
14 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
15 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
16 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
17 added. Respondent shall submit dated and signed documentation confirming such attendance to
18 the Board during the entire period of probation. Respondent shall continue with the recovery plan
19 recommended by the treatment/rehabilitation program or a licensed mental health examiner
20 and/or other ongoing recovery groups.

21 15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
22 shall completely abstain from the possession, injection or consumption by any route of all
23 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
24 the same are ordered by a health care professional legally authorized to do so as part of
25 documented medical treatment. Respondent shall have sent to the Board, in writing and within
26 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
27 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
28 medication will no longer be required, and the effect on the recovery plan, if appropriate.

1 Respondent shall identify for the Board a single physician, nurse practitioner or physician
2 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
3 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
4 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
5 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
6 considered addictive have been prescribed, the report shall identify a program for the time limited
7 use of any such substances.

8 The Board may require the single coordinating physician, nurse practitioner, or physician
9 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
10 medicine.

11 **16. Submit to Tests and Samples.** Respondent, at his expense, shall
12 participate in a random, biological fluid testing or a drug screening program which the Board
13 approves. The length of time and frequency will be subject to approval by the Board.
14 Respondent is responsible for keeping the Board informed of Respondent's current telephone
15 number at all times. Respondent shall also ensure that messages may be left at the telephone
16 number when he is not available and ensure that reports are submitted directly by the testing
17 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
18 to the Board by the program and Respondent shall be considered in violation of probation.

19 In addition, Respondent, at any time during the period of probation, shall fully cooperate
20 with the Board or any of its representatives, and shall, when requested, submit to such tests and
21 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
22 hypnotics, dangerous drugs, or other controlled substances.

23 If Respondent has a positive drug screen for any substance not legally authorized and not
24 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
25 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
26 practice pending the final decision on the petition to revoke probation or the accusation. This
27 period of suspension will not apply to the reduction of this probationary time period.

28 If Respondent fails to participate in a random, biological fluid testing or drug screening

1 program within the specified time frame, Respondent shall immediately cease practice and shall
2 not resume practice until notified by the Board. After taking into account documented evidence
3 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
4 suspend Respondent from practice pending the final decision on the petition to revoke probation
5 or the accusation. This period of suspension will not apply to the reduction of this probationary
6 time period.

7 17. **Mental Health Examination.** Respondent shall, within 45 days of the
8 effective date of this Decision, have a mental health examination including psychological testing
9 as appropriate to determine his capability to perform the duties of a registered nurse. The
10 examination will be performed by a psychiatrist, psychologist or other licensed mental health
11 practitioner approved by the Board. The examining mental health practitioner will submit a
12 written report of that assessment and recommendations to the Board. All costs are the
13 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
14 result of the mental health examination will be instituted and followed by Respondent.

15 If Respondent is determined to be unable to practice safely as a registered nurse, the
16 licensed mental health care practitioner making this determination shall immediately notify the
17 Board and Respondent by telephone, and the Board shall request that the Attorney General's
18 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
19 practice and may not resume practice until notified by the Board. During this period of
20 suspension, Respondent shall not engage in any practice for which a license issued by the Board
21 is required, until the Board has notified Respondent that a mental health determination permits
22 Respondent to resume practice. This period of suspension will not apply to the reduction of this
23 probationary time period.

24 If Respondent fails to have the above assessment submitted to the Board within the 45-day
25 requirement, Respondent shall immediately cease practice and shall not resume practice until
26 notified by the Board. This period of suspension will not apply to the reduction of this
27 probationary time period. The Board may waive or postpone this suspension only if significant,
28 documented evidence of mitigation is provided. Such evidence must establish good faith efforts

1 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

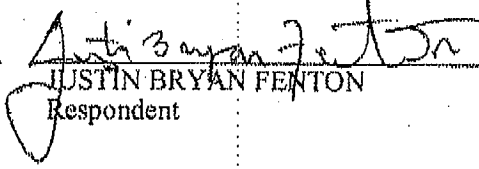
2 Only one such waiver or extension may be permitted.

3 18. **Therapy or Counseling Program.** Respondent, at his expense, shall
4 participate in an on-going counseling program until such time as the Board releases him from this
5 requirement and only upon the recommendation of the counselor. Written progress reports from
6 the counselor will be required at various intervals.

7 ACCEPTANCE

8 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
9 stipulation and the effect it will have on my application for licensure by examination as a
10 Registered Nurse and my license. I enter into this Stipulated Settlement and Disciplinary Order
11 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
12 Board of Registered Nursing.

13
14 DATED: 3/18/11

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16 JUSTIN BRYAN FENTON
17 Respondent
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: March 23, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General


WILLIAM A. BUESS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 2011 595

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 WILLIAM A. BUESS
Deputy Attorney General
4 State Bar No. 134958
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2039
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. 2011-595

13 **JUSTIN BRYAN FENTON**

STATEMENT OF ISSUES

14
15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about August 16, 2010, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for Licensure by Examination from JUSTIN BRYAN
24 FENTON (Respondent). On or about August 11, 2010, Justin Bryan Fenton certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on September 9, 2010.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

" 4. Section 2762 of the Code states in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"...

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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1 5. Section 2736 of the Code provides, in pertinent part, that the Board may deny a
2 license when it finds that the applicant has committed any acts constituting grounds for denial of
3 licensure under section 480 of that code.

4 6. Section 475 of the Code states in pertinent part:

5 "(a) Notwithstanding any other provisions of this code, the provisions of this division shall
6 govern the denial of licenses on the grounds of:

7 "...

8 "(2) Conviction of a crime.

9 "...

10 "(4) Commission of any act which, if done by a licentiate of the business or
11 profession in question, would be grounds for suspension or revocation of license.

12 7. Section 480 of the Code states:

13 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
14 one of the following:

15 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
16 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
17 board is permitted to take following the establishment of a conviction may be taken when the
18 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
19 an order granting probation is made suspending the imposition of sentence, irrespective of a
20 subsequent order under the provisions of Section 1203.4 of the Penal Code.

21 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
22 benefit himself or herself or another, or substantially injure another.

23 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
24 would be grounds for suspension or revocation of license.

25 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
26 substantially related to the qualifications, functions, or duties of the business or profession for
27 which application is made.

28 ///

1 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
2 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
3 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
4 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
5 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
6 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
7 Section 482.

8 "(c) A board may deny a license regulated by this code on the ground that the applicant
9 knowingly made a false statement of fact required to be revealed in the application for the
10 license."

11 REGULATORY PROVISIONS

12 8. California Code of Regulations, title 16, section 1444, states in pertinent part:

13 "A conviction or act shall be considered to be substantially related to the qualifications,
14 functions or duties of a registered nurse if to a substantial degree it evidences the present or
15 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
16 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

17 "...

18 "(c) Theft, dishonesty, fraud, or deceit.

19 FIRST CAUSE FOR DENIAL OF APPLICATION

20 (Disorderly Conduct, Battery, and Disturbing Another Conviction February 27, 1998)

21 9. Respondent's application is subject to denial for unprofessional conduct under
22 sections 2761(a) and (f), 2736, 475, 480, and California Code of Regulations Title 16, section
23 1444, based on the conviction for Disorderly Conduct, Battery and Disturbing Another. The
24 circumstances are as follows:

25 a. On or about February 27, 1998, in the action entitled *People of the State of*
26 *California v. Justin Bryan Fenton*, Riverside County case number 22426, Respondent pleaded
27 GUILTY to a misdemeanor violation of Penal Code section 415(2), Willfully, Unlawfully and
28 Maliciously Disturbing another person by loud and unreasonable noise; misdemeanor violation of

1 Penal Code section 242 Battery; and misdemeanor violation of Penal Code section 647(f)
2 Disorderly Conduct-public intoxication.

3 SECOND CAUSE FOR DENIAL OF APPLICATION

4 (DUI Conviction July 7, 1998)

5 10. Respondent's application is subject to denial for unprofessional conduct under
6 sections 2761(a) and (f), 2762(b) and (c), 2736, 475, 480 and California Code of Regulations
7 Title 16, section 1444, based on a conviction for Possession of a Controlled Substance and DUI.
8 The circumstances are as follows:

9 a. On or about July 7, 1998, in the action entitled *People of the State of California*
10 *v. Justin Bryan Fenton*, Riverside County case number RIM 370457, Respondent pleaded
11 GUILTY to misdemeanor violation of Health and Safety Code section 11377(a), Willfully and
12 Unlawfully possess a controlled substance, to wit, METHAMPHETAMINE; and misdemeanor
13 violation of California Vehicle Code section 23152(b) DUI.

14 THIRD CAUSE FOR DENIAL OF APPLICATION

15 (Conviction for Filing False Report Conviction August 23, 2002)

16 11. Respondent's application is subject to denial for unprofessional conduct under
17 sections 2761(a) and (f), 2736, 475, 480 and California Code of Regulations Title 16, section
18 1444, based on a conviction for Filing a False Report of Criminal Activity. The circumstances
19 are as follows:

20 a. On or about August 23, 2002, in the action *People of the State of California v.*
21 *Justin Bryan Fenton*, Riverside County Superior Court case number COM 037453, Respondent
22 pleaded GUILTY to misdemeanor violation of Penal Code section 148.5(a), Willfully and
23 Unlawfully reporting to a law enforcement officer that a felony and misdemeanor has been
24 committed knowing that report to be false.

25 FOURTH CAUSE FOR DENIAL OF APPLICATION

26 (DUI Conviction October 19, 2006)

27 12. Respondent's application is subject to denial for unprofessional conduct under section
28 2761(a) and (f), 2762(b) and (c), 2736, 475, 480 and California Code of Regulations Title 16,

1 section 1444, based on a conviction for misdemeanor violation of California Vehicle Code
2 section 23152(a) and (b). The circumstances are as follows:

3 a. On or about October 19, 2006, in the action *People of the State of California v.*
4 *Justin Bryan Fenton*, Riverside County Superior Court case number RIM 486551, Respondent
5 pleaded GUILTY to misdemeanor violations of California Vehicle Code section 23152(a) and
6 (b).

7 FIFTH CAUSE FOR DENIAL OF APPLICATION

8 (Arrest, Under the Influence of Controlled Substance December 27, 1997)

9 13. Respondent's application is subject to denial for unprofessional conduct under
10 sections 2761(a) and (f), 2762(b) and (c), 2736, 475, 480 and California Code of Regulations
11 Title 16, section 1444, based on an arrest for misdemeanor violation of Health and Safety Code
12 section 11550(a), Willfully and Unlawfully Use and be Under the Influence of a Controlled
13 Substance. The circumstances are as follows:

14 a. On or about December 27, 2006, Respondent was arrested and subsequently
15 charged with misdemeanor violation of Health and Safety Code section 11550(a) Willfully and
16 Unlawfully Using and Being Under the Influence of a Controlled Substance in the action *People*
17 *of the State of California v. Justin Bryan Fenton, and others*, Riverside County case number
18 22611. The case was subsequently dismissed against Respondent on Respondent's completion
19 of the court ordered drug diversion class.

20 PRAYER

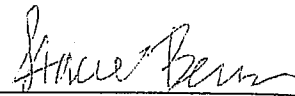
21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Denying the application of Justin Bryan Fenton for Licensure by Examination;
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2. Taking such other and further action as deemed necessary and proper.

DATED: 1-11-2011



for

LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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